



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ew.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,404	02/08/2002	Stephanie Dubsky	12227/2	1650

26646 7590 08/14/2003

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
----------	--------------

3727

DATE MAILED: 08/14/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,404

Applicant(s)

DUBSKY, STEPHANIE

Examiner

Joseph C. Merek

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the loop comprises a cord with a first cord end and a second cord end, the first cord end attached to the inner surface of the body at a first one of the least two separate points and the second cord end attached to the inner surface of the body at a second of the least two separate points" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 4, it has not been adequately

Art Unit: 3727

disclosed how the loop will function when ends are attached as claimed to the inner surface of the body. The claim requires that the loop have a first cord end attached at a first of the at least two separate points and a second cord end secured to second of the at least two separate points. Moreover, this structure would appear to not define a loop since the ends of the cord are not attached to each other and therefore do not make a loop. Regarding claim 15, it has not been adequately disclosed how the first size can be more than twice the second size. When the loop forms two handles the handles will be of the same size. Since they are the same size, the second size would be almost double the first size if the apertures or the points at which the loop is attached to the bag were next to each other on the bottom. As shown in the drawings, there is a large gap between attachment points. The cord will extend between these points to prevent the second length from being double the first.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It has not been adequately disclosed how the loop will function when ends are attached as claimed to the inner surface of the body. The claim requires that the loop have a first cord end attached at a first of the at least two separate points and a second cord end secured to second of the at least two separate points. Moreover, this structure would appear to not define a loop since the ends of the cord are not attached to each other and therefore do not make a loop. It is not clear

Art Unit: 3727

what applicant is claiming. The claim should state "the at least" instead of "the least".

Regarding claim 15, it has not been adequately disclosed how the first size can be more than twice the second size. When the loop forms two handles the handles will be of the same size. Since they are the same size, the second size would be almost double the first size if the apertures or the points at which the loop is attached to the bag were next to each other on the bottom. As shown in the drawings, there is a large gap between attachment points. The cord will extend between these points to prevent the second length from being double the first. It is not clear what is being claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-6, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Deubener (US 11,305,198). Regarding claim 1, see Figs. 1-3, where the structure is shown. The loop 10 and is attached to the body at least two locations. The loop is free to pass through the holes and 11. One end of the loop can be pulled so that it is longer than the other loop. Regarding claim 2, when the first end loop is extended so that the other end of the loop is tight to the bag then the one loop is substantially greater than the other. Regarding claim 4, as it is best understood, the cord passes through the inner surface of the body at four different locations and satisfies the claim

Art Unit: 3727

limitation. This is considered as secured to the inner surface of the body. Regarding claim 5, the loop is configured to form a decoration wrapped around the outer surface of the body. With one end of the loop extended, the extended end is capable of being wrapped about the outer surface of the body. Regarding claim 6, the two points are located on both the inner surface and the outer surface of the body since they pass through both. Regarding claim 9, see Figs. 1 and 2, where the inner surface has holes 7 through which the loop passes. There are two pairs of holes. Regarding claim 10, the loop is configured to be detached from the body. The loop could be removed by cutting the loop.

Claims 1, 2, 4-11, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Maxfield (US 1,182,580). Regarding claim 1, see Fig. 1-3, where the claimed structure is shown. The loop is 7. The loop 7 can form one loop as shown or two handles where the other end of 7 joins the first end. The first or one loop as seen in Fig. 1 is greater in length than the two. The eyelets are secured to both the inner and outer surfaces of the bag as seen in Fig. 3. Regarding claim 2, the one first size is substantially greater than the second size. Regarding claim 4, as it is best understood, the reference meets the intended claim language. Regarding claim 5, the loop is capable of being wrapped around the outer surface of the body. Regarding claims 6-8, the two points are on both the inner and outer surface of the body since the holes pass through the inner and outer surfaces of the body. The eyelets are secured to both the inner and outer surfaces of the body as seen in Fig. 3. Regarding claim 9, there are at least two pairs of holes. The loop is threaded through the holes. Regarding claim 10,

the loop could be cut from the bag. Regarding claim 11, see Figs. 1, 2, and 3, where the bag or body is made from a single sheet of material that is folded with the edges sewn to form the bag. Regarding claim 13, the top is closeable as seen in Figs. 1-3, by the flap 3. Regarding claim 15, as it is best understood, the first length of the loop as seen in Fig. 1 is almost double the second length of the loop since it is only limited by the distance between the holes 4.

Claim Rejections - 35 USC § 103

Claims 7, 8, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deubener (US 1,305,198). Regarding claim 7, 8, and 15, Deubener teaches members attached to the outer surface of the body through which the loop passes but does not teach them secured to the inner surface of the body. It would have been an obvious matter of design choice to locate the reinforcements to the inner surface of the body to provide the same function without disturbing the appearance of the exterior surface of the container. Regarding claim 15, as it is best understood, the first size of the loop couldn't be equal to or greater than double the second size of the loop due to the spacing between the separate points. The claim only requires the one to be greater than the other.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deubener in view of Katz (US 1,996,619). Regarding claim 3, Deubener does not teach the cord end secured to together. Katz teaches a similar bag where the cord ends are secured together by a knot as seen in Fig. 1. It would have been obvious to employ the knot of

Katz in the loop of Deubener to allow the loops to be threaded through the holes in the bag.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deubener in view of Hurst (US 4,290,763). Regarding claim 14, Deubener does not teach the body is made from a laminate with a metal layer. Hurst teaches a laminated structure with a metal layer that can be used for bags. It would have been obvious to employ the laminated material of Hurst in the bag of Deubener to provide a stronger bag or to provide a water resistant material for the bag.

Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maxfield in view of VanErdern et al (US 4,786,190). Regarding claim 12, Maxfield does not teach the closed end being welded. VanErdern et al, as seen in 1 and 3, teaches that a folded closed end can be replaced with a welded closed end. It would have been obvious to weld the closed end of Maxfield as taught by VanErdern et al to provide an alternative way to make the bag.

Conclusion

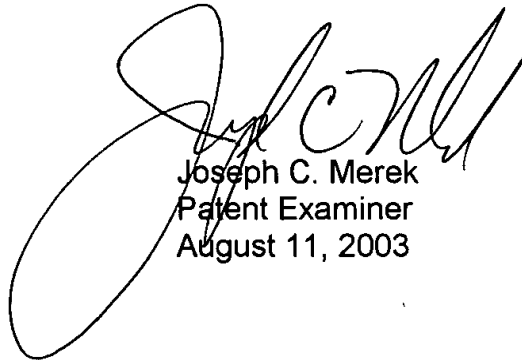
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shaw is cited for a loop that wraps about the outside of the bag. Musick, Stucker, and Maxwell are all cited for teaching bags with loops. Clune is cited for teaching a composite metal foil sheet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

Art Unit: 3727,

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Joseph C. Merek
Patent Examiner
August 11, 2003